

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
JACKSON DIVISION

MELISSA RUSMISEL

PLAINTIFF

VS.

CIVIL ACTION NO. 3:04CV749-WHB-AGN

CORTEZ BYRD TRUCKING COMPANY, INC.

DEFENDANT

OPINION AND ORDER

This cause is before the Court on Defendant's Motion for Summary Judgment, which the Court finds is not well taken and should be denied. The subject Motion was filed with the Clerk of the Court on December 5, 2005. On January 3, 2006, Magistrate Judge Alfred G. Nicols entered an Order which granted Plaintiff's Motion to Compel Discovery, and required Defendant to fully respond to discovery by January 17, 2006. As Plaintiff points out on page ten of her Memorandum in Opposition to Defendant's Motion for Summary Judgment, the discovery to be produced by Defendants could have a significant effect on the outcome of this case. The Court therefore finds that the subject Motion for Summary Judgment must be denied.¹ See Hamilton v. Trover Solutions, Inc., 104 Fed.Appx.

¹Plaintiff states she "does not move to stay her summary judgment response pending the January 17, 2006 date. However, Plaintiff does reserve the right, if necessary, to supplement her Summary Judgment Response and her disclosures upon receipt of the compelled information." Plaintiff's Memorandum in Opposition to Defendant's Motion for Summary Judgment, p. 10 n.4. What Plaintiff is asking the Court to do is render a decision on the merits of the Motion for Summary Judgment, and if the decision is adverse to her,

942, 944 (5th Cir. 2004)(citation omitted)(holding that under most circumstances, a plaintiff should be afforded full and complete discovery before a motion for summary judgment can be granted).

IT IS THEREFORE ORDERED that Defendant's Motion for Summary Judgment (docket entry no. 39) is hereby denied.

SO ORDERED this the 17th day of January, 2006.

s/ William H. Barbour, Jr.
UNITED STATES DISTRICT JUDGE

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allow her to file a supplemental response to the Motion for Summary Judgment. Plaintiff's request on this issue is not well taken. This Court does not operate in that manner.